

## EXHIBIT F

1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
3                   CHARLESTON DIVISION

4                   - - -

5                   IN RE:    ETHICON, INC.                   :  
6                   PELVIC REPAIR SYSTEM,               :  
7                   PRODUCTS LIABILITY LITIGATION       :   MDL NO. 2327  
8                   THIS DOCUMENT RELATES TO ALL CASES   :

9                   - - -

10                  VOLUME I  
11                  CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

12                  Thursday, June 20, 2013

13                  - - -

14                  Videotaped deposition of RENEE  
15                  ELAYNE SELMAN, held at DRINKER BIDDLE &  
16                  REATH, L.L.P., One Logan Square, 18th &  
17                  Cherry Streets, Philadelphia, Pennsylvania,  
18                  commencing at approximately 9:11 a.m.,  
19                  before Rosemary Locklear, a Registered  
20                  Professional Reporter, Certified Realtime  
21                  Reporter, Certified Court Reporter (NJ) and  
22                  Notary Public.

23  
24                  GOLKOW TECHNOLOGIES, INC.  
25                  877.370.3377 ph|971.591.5672   Fax  
                  deps@golkow.com

1           A.       Don't destroy any documents. I  
2       mean, nothing was deleted. I don't recall  
3       the exact processes, but we were trained  
4       that, you know, hang onto your documents.

5           Q.       And what was your understanding  
6       as to why that was important?

7           A.       In case it was needed in the  
8       future for any kind of proceeding.

9           Q.       For the court proceedings,  
10      potentially?

11          A.       Potentially, yes.

12          Q.       Okay. So if you look at Exhibit  
13      2000, this was a document that was provided  
14      to us. It has a Bates number, you'll see,  
15      in the right-hand corner.

16                   And through -- through the  
17      course of the day, Miss Selman, I may refer  
18      to those for the record periodically and  
19      also to help you navigate through some of  
20      the documents by using maybe the last three  
21      numbers of the document.

22                   This document is  
23      ETH.MESH.00875544 and it's titled "J&J Law  
24      Department Document Preservation Notice."

25                   Do you see that?

1 A. Yes.

2 Q. It states, "Do Not Destroy,  
3 Specified Documents"; right?

4 A. Yes.

5 Q. And the date of this is May 22nd,  
6 2003, so this document was in place prior to  
7 the time that you arrived as president of  
8 the company; is that right?

9 A. Yes.

10 Q. And -- and the -- if you see the  
11 -- the subject line or the re. clause, it  
12 states, "Hold Notice for Kandell versus  
13 Ethicon, Inc."

14 I take it that that is a hold  
15 notice related to that litigation that is  
16 going on.

17 Is that your understanding?

18 A. Yes.

19 Q. Now, it states, "Ethicon, Inc.  
20 has been named in a lawsuit arising out of  
21 the alleged use of TVT."

22 Do you see that?

23 A. Yes.

24 Q. And then -- strike that.

25 Let me ask you a question: Do

1     you think this litigation hold notice was in  
2     place when you arrived at the company in  
3     2005 as president?

4           A.     I don't -- I don't recall, but  
5     based on the date on this.

6           Q.     Would there be a process where  
7     the company would let you know if the hold  
8     notice was cancelled and you could start  
9     destroying documents, or how did that work?

10          A.     I -- I don't recall notifications  
11     of suddenly we're not under a document hold.  
12     I think we would err on the side of always  
13     keep your documents.

14          Q.     This talks about a lawsuit and it  
15     talks about TVT.

16                     What does TVT stand for?

17          A.     Transvaginal tape.

18          Q.     Have you ever heard it called  
19     tension-free tape or tension-less vaginal  
20     tape?

21                     MR. SNELL:   Objection.   Form.

22                     THE WITNESS:  No.

23                     MR. CARTMELL:  Okay.

24     BY MR. CARTMELL:

25          Q.     We'll talk about that in a little

1 bit.

2 But when this says maintain  
3 your documents, do not destroy documents  
4 related to TVT, would that be interpreted to  
5 mean the entire family of TVT products?

6 A. I would -- would assume so.

7 Q. Okay. At least based on your  
8 understanding, out of an abundance of  
9 caution, you would try to keep all documents  
10 related to the -- the family of TVT  
11 products. Is that fair?

12 A. Yes.

13 Q. If you'll go to Exhibit 2001,  
14 you'll see this is another document that was  
15 provided to us in this litigation by Johnson  
16 & Johnson. The number is ETH.MESH.01949009.  
17 Again, it states, "J&J Law Department  
18 Document Preservation" Noticed -- "Notice,  
19 Do Not Industry, Specified Documents."

20 Do you see that?

21 A. Yes.

22 Q. And this is dated April 27th,  
23 2006; correct?

24 A. Yes.

25 Q. That was after the time that you

1 started as president of Ethicon Women's  
2 Health & Urology?

3 A. Correct.

4 Q. Is your belief that this hold --  
5 this is a litigation hold notice; correct?

6 A. Correct.

7 Q. And is your belief that this  
8 litigation hold notice was in place during  
9 the time that you were serving as the  
10 president of the company?

11 A. Yes.

12 Q. Do you recall this?

13 A. I don't recall specific  
14 litigation hold notices. I know that we had  
15 them, I just don't recall each individual  
16 one.

17 Q. The subject line or the re.  
18 clause here says, Hold notice for Lana  
19 Keeton versus Gynecare, et al.; right?

20 A. Yes.

21 Q. And again it talks about Gynecare  
22 and Ethicon are parties to a lawsuit  
23 involving TVT device.

24 Do you see that?

25 A. Uh-huh.

1 Q. So would your understanding be  
2 that all documents related to the TVT family  
3 of products would need to be preserved by  
4 you, subject to this litigation hold notice?

5 MR. SNELL: Objection. Form.  
6 Document speaks for itself.

7 You can answer.

8 THE WITNESS: The -- I would  
9 never see a document like this.

10 What would happen is there  
11 would be a specific notice from within the  
12 company that would lay out exactly what  
13 somebody needed to do. So this document per  
14 se I don't recall I've ever seen, but there  
15 would have been specific instructions about  
16 what all employees should do.

17 MR. CARTMELL: Okay.

18 BY MR. CARTMELL:

19 Q. Let me ask you, there's a bolded  
20 and underlined section that states, failure  
21 to preserve these materials could result in  
22 Court-imposed penalties or sanctions on both  
23 the company and/or individual employees. Do  
24 not discard, destroy or alter in any way any  
25 of the documents, electronic or paper,



1 described below and please ensure that these  
2 instructions are followed.

3 Do you see that?

4 A. Yes.

5 Q. This sort of document, though,  
6 that we're looking at in Exhibit 2001, would  
7 that be sent out to all employees of the  
8 company?

9 A. I don't recall this specific  
10 document, but the understanding to not  
11 discard, that would be clear.

12 Q. The second page, if you'd turn to  
13 that, there is a section entitled  
14 "Instructions For Handling Electronic  
15 Materials."

16 Do you see that?

17 A. Yes.

18 Q. And this talks specifically about  
19 E-mails and attachments to E-mails and  
20 specifically talks about creating an E-mail  
21 folder to store or preserve these documents;  
22 is that correct?

23 A. Yes.

24 Q. So is -- is -- are these the  
25 types of instructions that you were just

1 talking about a minute ago?

2 A. Yes.

3 Q. So just explain how you, as the  
4 president of the company, when this  
5 litigation hold came out would preserve  
6 E-mails and electronic documents.

7 A. I mean, we knew not to delete  
8 things. I mean, it was really that simple.

9 Q. Well, and this sounds like you  
10 would have to create an E-mail folder on  
11 your computer in order to put all that --  
12 all the E-mails and electronic documents in  
13 there; is that right?

14 A. It looks like it. Or some kind  
15 of eRoom or -- I'm not sure.

16 Q. What's an eRoom?

17 A. Just I guess a new folder titled  
18 whatever. And I'm not sure where it sat on  
19 the server. I guess that's what I'm getting  
20 at.

21 Q. During the time that you were  
22 president of Ethicon Women's Health &  
23 Urology, did you actually create those  
24 folders or store those documents for  
25 litigation purposes?

1           A.       I recall creating some folders or  
2       my administrative assistant helped me create  
3       folders. I don't remember the exact  
4       process.

5           Q.       Who was your administrative  
6       assistant?

7           A.       During part of the time, most of  
8       the time it was Sandy Pompilio.

9           Q.       And you said part of the time, so  
10      when was it that she no longer was your  
11      assistant?

12          A.       I don't recall the exact time  
13      frame. She retired close to the -- she  
14      retired before I left, I guess.

15          Q.       But close to the time that you  
16      left?

17          A.       Right.

18          Q.       And who became your assistant  
19      after Sandy?

20          A.       I cannot recall her name.

21          Q.       It was a short period of time, I  
22      take it?

23          A.       Yes. Yes.

24          Q.       A matter of months?

25          A.       I think so, yes.

1 Q. So you would preserve -- and let  
2 me ask you this: Were you very careful to  
3 make sure you were preserving all E-mails  
4 related to the TVT family of products?

5 A. We -- we generally just didn't  
6 delete things. I mean, that was the safest.  
7 If in doubt, don't delete.

8 Q. Keep it all.

9 A. Keep it all.

10 Q. Okay. And put it all in the  
11 place that was designated for it to be  
12 placed by the company; correct?

13 A. Right. In some fashion.

14 Q. If you look at the next exhibit  
15 that was provided to us, Exhibit 2002, and  
16 this is ETH.MESH.05224752. Tell us what  
17 this is.

18 MR. SNELL: Take your time and  
19 look at it.

20 MR. PAKETT: I'm sorry. Was  
21 that 2002 or 2022?

22 MR. SNELL: 2002.

23 MR. PAKETT: Okay. Thank you.

24 THE WITNESS: Okay.

25 BY MR. CARTMELL:

1 Q. This looks like an E-mail that  
2 was sent to actually hundreds of people.

3 Do you see that?

4 A. Right.

5 Q. And it's from compliance  
6 information update. That's up at the top.  
7 And then the date is October 30th of 2008.

8 Do you see that?

9 A. Right. Yes.

10 Q. And this was actually an E-mail  
11 to hundreds of people within the company  
12 that was sent by you and others; correct?

13 A. Yes.

14 Q. I take it you were sending this  
15 as one of the leaders of -- of the company  
16 related to litigation that was pending; is  
17 that correct?

18 A. Yes. It was from all of the  
19 presidents of Ethicon so it was a general,  
20 this is what everyone should do.

21 Q. And tell us what this is, the  
22 general communication to these employees.

23 A. That it's a -- a notification of  
24 how to handle litigation holds and ways to  
25 follow the process in terms of Outlook

1 mailbox and, you know, just specifics on how  
2 to do it.

3 Q. If you'd turn to last three, 759  
4 in the Bates number, it states, "NEW  
5 Procedures for Managing Litigation Holds  
6 effective November 6, 2008."

7 Do you see that?

8 A. I see it up there.

9 Q. It's actually on --

10 MR. SNELL: On the previous  
11 page.

12 BY MR. CARTMELL:

13 Q. -- Page 759 are the last three  
14 numbers of the Bates.

15 A. Oh, okay.

16 Q. It states, the procedures  
17 described below are being implemented by the  
18 Johnson & Johnson Law Department.

19 Was it the Johnson & Johnson  
20 law department that handled the compliance  
21 issues and litigation holds?

22 A. I -- I don't recall specifically  
23 where the notice -- notices came from.

24 Q. Okay. Well, it looks like here  
25 that they -- they're implemented by Johnson

1     & Johnson, the law department at Johnson &  
2     Johnson.

3                     Do you see that?

4                     MR. SNELL: Objection. Form.  
5     The document speaks for itself.

6                     THE WITNESS: Okay. Yes.

7     BY MR. CARTMELL:

8             Q.     And then it says, introducing  
9     enhanced procedures for managing litigation  
10    holds.

11                    Why were the procedures being  
12    enhanced? Do you remember?

13             A.     I have no idea.

14             Q.     If you'd turn to the next page,  
15    your signature is at the bottom. It states,  
16    Renee Selman, worldwide president.

17                    Do you see that?

18             A.     Yes.

19             Q.     And then at the top, compliance  
20    with hold notices is important. All of you  
21    are aware that strict compliance with these  
22    holds is essential to the ability of the  
23    company to defend itself in court in the  
24    cases filed against it. There are numerous  
25    examples of companies who negligently failed

1 to preserve documents required for  
2 litigation and, as a consequence, infuriated  
3 the judge presiding over the case, were  
4 subject to fines or penalties or, in extreme  
5 circumstances, had difficult judgments  
6 entered against them.

7 Do you see that?

8 A. Yes.

9 Q. Was that being stated by the  
10 company to try to tell employees how  
11 important it was to make sure they keep all  
12 documents for purposes of litigation?

13 A. Yes.

14 Q. And then it says, we are making  
15 compliance with hold notices easier.

16 A couple paragraphs down it  
17 says, beginning November -- excuse me.  
18 Strike that.

19 A couple paragraphs down it  
20 states, beginning November 6th, 2008, you  
21 will see a litigation hold folder appear in  
22 the Outlook mailbox and a litigation hold  
23 folder on your desktop.

24 Tell us what that was.

25 A. It -- it appears they



1 automatically created the litigation hold  
2 folder in your Outlook.

3 Q. Okay. You sent this letter.

4 Do you remember that happening?

5 A. Folders being set up  
6 automatically?

7 Q. Right.

8 A. Yes.

9 Q. And was it your belief -- strike  
10 that.

11 Did you follow the procedures  
12 closely for litigation holds?

13 A. Yes.

14 Q. And was your understanding that  
15 the company was having difficulty with  
16 employees following the practices or the  
17 policies set up to follow litigation holds?

18 MR. SNELL: Objection. Form.

19 BY MR. CARTMELL:

20 Q. Or do you remember?

21 A. I wasn't aware of that.

22 Q. The next exhibit, 2003, I  
23 believe, this is an E-mail from, at the top,  
24 if you start at the top, from Scott Jones  
25 dated February 1st of 2011 but I -- I want